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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

**DEBTORS' APPLICATION IN LIEU OF MOTION IN  
SUPPORT OF ENTRY OF STIPULATION AND CONSENT ORDER  
(I) MODIFYING LEASE REJECTION ORDER, (II) REVERSING REJECTION  
OF LEASE, AND (III) APPROVING ASSUMPTION AND ASSIGNMENT OF LEASE**

<sup>1</sup> The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

TO: THE HONORABLE JUDGE VINCENT F. PAPALIA UNITED STATES  
BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY:

The above-captioned debtors and debtors in possession (collectively, the “Debtors”), by and through their undersigned co-counsel, Cole Schotz P.C., and Kirkland & Ellis LLP and Kirkland & Ellis International LLP (collectively, “Kirkland”), respectfully state the following in support of this application (the “Application”), pursuant to D.N.J. LBR 9021-1(b), seeking the approval and entry of the proposed *Stipulation and Consent Order (I) Modifying Lease Rejection Order, (II) Reversing Rejection of Lease, and (III) Approving Assumption and Assignment of Lease* (the “Proposed Stipulation”),<sup>2</sup> a copy of which is attached hereto as **Exhibit 1**, and respectfully state as follows:

1. On April 23, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On April 24, 2023, the Court entered an order [Docket No. 75] authorizing procedural consolidation and joint administration of these Chapter 11 Cases pursuant to Bankruptcy Rule 1015(b). On May 5, 2023, the United States Trustee for the District of New Jersey (the “U.S. Trustee”) appointed an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code (the “Committee”) [Docket No. 218].

2. As of the Petition Date, BVC Oakwood Commons, LLC (the “Landlord”) and one of the Debtors were parties to an unexpired lease of nonresidential real property for retail store space at 4646 Lebanon Pike, Hermitage, Tennessee 37076 (the “Lease”).

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Proposed Stipulation.

3. Pursuant to the *Debtors' Motion for Entry of an Order (I) Authorizing the Sale of Certain Unexpired Leases Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (II) Approving Assumption and Assignment of Certain Unexpired Leases, and (III) Granting Related Relief* [Docket No. 644] (the "Motion to Assume and Assign"), filed on June 7, 2023, the Debtors sought authority to assume and assign certain unexpired leases to Burlington Coat Factory Warehouse Corporation and certain of its affiliates (collectively, "Burlington") in accordance with the terms of the assumption and assignment agreement attached as Schedule 2 to Exhibit A of the Motion to Assume and Assign (the "Assumption and Assignment Agreement").

4. The Lease was included among certain other nonresidential real property leases that were rejected (the "Rejection") pursuant to the *Order (I) Authorizing (A) Rejection of Certain Unexpired Leases and (B) Abandonment of Any Personal Property, Effective as of the Rejection Date and (II) Granting Related Relief* [Docket No. 373], entered on May 17, 2023 (the "Rejection Order").

5. Landlord and the Debtors (collectively, the "Parties") desire to have the Rejection reversed, have the Lease removed from the rejection list, assumed and assigned to Burlington in accordance with the Motion to Assume and Assign and the Assumption and Assignment Agreement, a copy of which applicable Assumption and Assignment Agreement with respect to the Lease is annexed to Exhibit 1 hereto as Schedule 1.

6. Reversal of the Rejection and the assumption and assignment of the Lease to Burlington will benefit the Debtors' bankruptcy estates by, among other things, eliminating certain prepetition and lease rejection damages claims and allowing the Debtors to monetize the Lease through the assumption and assignment.

7. The Parties have agreed to the terms of the attached Proposed Stipulation.

8. The Debtors submit that the Proposed Stipulation is in the best interest of the Debtors and their estates.

9. This Application is submitted pursuant to D.N.J. LBR 9021-1 (b) in lieu of a motion in support of the Debtors' request that the Court enter the Proposed Stipulation as presented.

10. No previous application for the relief sought herein has been made to this or any other Court.

*[Remainder of Page Intentionally Left Blank]*

**WHEREFORE**, the Debtors respectfully request that the Court enter the Proposed Stipulation, in substantially the forms submitted herewith, granting the relief requested herein and such other relief as is just and proper under the circumstances.

Dated: June 7, 2023

*/s/ Michael D. Sirota*

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